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IN THE

Supreme Court of the United States

OCTOBER TERM, 1979

No. 79-1562

JOHN P. BALDWIN, *et al.*,
Petitioners,

vs.

CRAIG MILLS, *et al.*,
Respondents.

On Petition for a Writ of Certiorari to the Supreme Court of Florida

---

BRIEF FOR RESPONDENTS IN OPPOSITION

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QUESTION PRESENTED

(A) Whether this Court has jurisdiction to review this case in view of the fact that the basic holding of the Supreme Court of Florida was that purely as a matter of state law, an implied trust existed in the local church in favor of the hierarchical mother church, and such holding violates no constitutional priciples.

(B) In the alternative, assuming that the ruling below had a constitutional basis, whether the First Amendment, as interpreted by this Court beginning with *Watson* v.

Jones, 80 U.S. (13 Wall.) 679 (1872) and continuing through *Serbian Eastern Orthodox Diocese* v. *Milivojevich*, 426 U.S. 696 (1976) and *Jones* v. *Wolf*, 443 U.S. ——, 61 L.Ed.2d 775, 99 S.Ct. 3020 (1979) permits civil courts to defer to the determination by a hierarchical church court as to the identity of the local congregation, where such a determination is essential to the resolution of a property dispute between two factors of a local church.

STATEMENT OF THE CASE

On August 7, 1973 Respondents as plaintiffs below filed a complaint in the Circuit Court for Madison County, Florida. The Respondents were Trustees of the Presbytery of Florida of the Presbyterian Church in the United States ("PCUS"), members of the Administrative Commission of the Presbytery of Florida, and certain persons officially recognized by the Presbytery of Florida as constituting the Church Session of the Madison Presbyterian Church in Madison, Florida. Petitioners as defendants below were persons claiming to be members of the Church Session, and its minister, and the Florida First National Bank at Madison, a bank holding funds on deposit in the name of the church. By their complaint, plaintiffs prayed that the individual defendants and all others associated with them be restrained from interfering with plaintiffs and other loyal members of the PCUS in the use of the church property.

The Madison Presbyterian Church was founded in 1840 and throughout its history has accumulated both real and personal property. It has never been incorporated, and title to its property has always been held by trustees elected by the congregation. On March 11, 1973 the defendant John P. Baldwin, who was then the regular ordained and installed pastor of the Madison Church presided over a congregational meeting. Upon a vote taken at such meeting, a petition was adopted requesting the Presbytery of Florida to dismiss the local church and its property from the Presbytery of Florida to an independent and autonomous congregation, and to dismiss and dissolve the pastoral relationship between the defendant John Baldwin and the Presbytery of Florida and PCUS.[1]

The Petition was referred by the Presbytery of Florida to a Commission of the Presbytery for study and recommendation for action upon the Petition. Thereafter, upon recommendation of the administrative Commission, the Presbytery denied the Petition of the majority of the Madison Church to be dismissed with its property from the Presbytery of Florida. No appeal or review was ever taken from that action, and, accordingly, the action of the Presbytery became final. (Pet. App. D-5-6.)

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[1] The petition which was received in evidence as Plaintiffs' Exhibit 16 is of substantial importance because it clearly and unequivocably acknowledges the hierarchical relationship between the Madison Church and PCUS and acknowledges the ecclesiastical jurisdiction of the Presbytery of Florida over the Madison Church. The following excerpts are illustrative of this relationship:

1. We have serious problems of conscience because our membership in the Presbyterian Church, U.S. . . .
2. Were we to remain a part of the Presbyterian Church, U.S. . . .
3. We believe that the fair and charitable solution is to be dismissed from the Presbytery of Florida in a manner consistent with the Constitution of the church.
4. Therefore, we, the congregation of Madison Presbyterian Church, Madison, Florida, do respectfully petition the Presbytery of Florida to dismiss us with our property as of the conclusion of Presbytery meeting April 10, 1973.

Thereafter, on May 20, 1973, a resolution was adopted by the congregation of the Madison Church upon a vote of 74 in favor and 29 in opposition by which Petitioners unilaterally purported to withdraw from and sever all relationship with the Presbytery of Florida and PCUS. On June 5, 1973 the Presbytery of Florida removed John Baldwin's name from the pastoral roll of the Presbytery because he had renounced the jurisdiction of PCUS, and declared the pulpit of the Madison Church to be vacant. The Presbytery thereafter declared and recognized plaintiffs Beck and Ragans and others as constituting the Church Session of the Madison Church with full authority to assume control of the congregation and all land, buildings, personal property and monies of the Madison Church. No review of that action was ever sought by the defendants, and such action accordingly became final and binding upon the parties.

The trial court held that PCUS is clearly hierarchical or representative in its government, with governmental power being vested in church courts or judicatories consisting of the Session which has jurisdiction over affairs pertaining to a single congregation; the Presbytery having jurisdiction over a certain district comprising several local congregations; the Synod having jurisdiction over a still larger district including several Presbyteries; and the General Assembly having jurisdiction over the affairs pertaining to the entire denomination. That holding was not disturbed by the District Court of Appeal, and it was affirmed by the Supreme Court of Florida.

Finally, the trial court held that the actions of the Presbytery of Florida were binding decisions of the church court having jurisdiction over the subject matter, and that it would defer to certain declaratory statements of the General Assembly of the Presbyterian Church in the United States which provided, among other things, that:

1. The Book of Church Order makes no provision for unilateral withdrawal of a church to autonomy or independency.
2. The disposition of the property of a particular church rests in the will of the congregation of that church; and that *the congregation is that body of persons recognized as members of that particular church by the respective courts of the church.* [Pet. App. D-7; emphasis added.]

The italicized portion of this holding was based squarely upon an interpretation of the Book of Church Order by the PCUS General Assembly, which was made part of the record in the case as Exhibit 26.

The District Court of Appeal reversed the trial court. However, the Supreme Court of Florida, consistent with a series of prior decisions following the doctrines announced by this Court in *Watson, supra* and its progeny, reversed the District Court of Appeal and affirmed the final judgment of the trial court, observing that:

> . . . a careful reading of the cases makes clear that the issue in a case such as this is not who owns the property. The Madison Presbyterian Church of Madison, Florida owns the property. The true issue is—who represents the Madison Presbyterian Church? The authorities from *Watson* v. *Jones* forward clearly respond that Petitioners [Respondents here] represent that church because of the structure and government of PCUS. [Pet. App. B-12.]

On September 28, 1978 the Supreme Court of Florida denied rehearing. On December 22, 1978 Petitioners sought a Petition for Writ of Certiorari from this Court which was granted for the purpose of remanding the cause to the Supreme Court of Florida in light of this Court's holding in *Jones* v. *Wolf*, supra. On October 25, 1979 the Supreme Court of Florida, after careful review of *Jones* v. *Wolf*, supra, declared its prior decision not

to be inconsistent with the principles enunciated by this Court in *Jones*, and reinstated its prior decision. After Petitioner's motion for rehearing was denied on January 8, 1980, this Petition for a Writ of Certiorari followed.

REASONS FOR DENYING THE WRIT

I

The opinion of the Supreme Court of Florida can be read as no more than a holding that under state law, an implied trust over local church property arises in favor of a hierarchical church that has the structure of PCUS. If so read, the Florida Supreme Court has decided this case on state law grounds, and this Court does not have jurisdiction to review the decision below.

II

In view of the fact, however, that the Supreme Court of Florida agreed with Judge Smith's dissent in the District Court of Appeal, and Judge Smith placed emphasis upon the rule of deference to church court decisions, the Supreme Court of Florida may have reached the result it did because of the church court decision in effect here. If the deference rule is a constitutional one, this Court would in that instance have jurisdiction to decide the case. For purposes of argument, the remainder of this Brief in Opposition will assume, for the most part, that the Florida Supreme Court's ruling was based upon constitutional premises.

A.

Petitioners again assert, as they did before, that if certiorari is granted, they intend to show that the historical background and other circumstances surrounding this case are unique and substantially different from the facts involved in other church property disputes. They suggest that PCUS contributed no funds to the local congregation (Pet. at 4, 17), while conceding that the Presbytery of Florida did contribute funds in the early years of the Madison Church's history for support of its ministry among other local churches. (Pet. at 4.)

However, the contribution of funds from a hierarchical church to a local congregation is not a controlling question even under state law. See *Kelley* v. *Riverside Blvd. Independent Church of God*, 44 Ill. App.3d 673, 358 N.E.2d 696 (1976). If the Supreme Court of Florida determines as a matter of state law that the presence or absence of such contributions is either controlling or persuasive in determining whether an implied trust exists in favor of the hierarchical denomination, it may do so consistent with First Amendment principles. Certainly, *Jones* v. *Wolf*, supra, does not command a different result.

B.

Petitioners also argue, as they did before, that the congregation of Madison Church was in existence before the Presbytery of Florida or PCUS came into being (Pet. at 11), although the significance of this point is nowhere explained. The Madison Church was formed in the year 1840, at which time there was one main body of Presbyterianism which was called "the Presbyterian Church in the United States of America." Thereafter, in 1861 the Presbytery of Florida met at the Madison Church and unanimously adopted a resolution severing its affiliation with the Presbyterian Church in the United States of America and concurring in the call for commissioners for the organization of a General Assembly with power to organize a new denomination. The Madison Church sent a delegate to the meeting of that General Assembly in 1861, at which time a resolution was unanimously adopted by which a new denomination was formed by the name of "the Presbyterian Church in the Confederate States of America," and which new denomination adopted the Constitution of the Presbyterian

Church in the United States of America subject only to the change in name. Thereafter, the name of the denomination was changed to "the Presbyterian Church in the United States." Accordingly, the Madison congregation fully participated in the actions which took place over a hundred years ago.

But Petitioners again fail to consider the obvious fact that the Madison congregation as it existed when this case was tried below is not the same "congregation" that it once was. The composition of local congregations is constantly changing as members die, move to other churches and new members are received into membership. The trust impressed upon the church property is not for the benefit of persons who are deceased or who have transferred their membership to other churches, but rather for the benefit of those who comprise the present membership of the congregation from time to time. So long as the congregation in existence at the time the schism occurred in 1861 was one which submitted to the discipline and government of PCUS, and that affiliation still existed at the time of the withdrawal in 1973, it is wholly immaterial that other persons comprised the congregation of Madison Church prior to the formation of PCUS. Judge Smith in his dissenting opinion for the District Court of Appeal said it well:

> Whatever may have been the merits of PCUSA's latent claim 116 years ago, it is now barred. The work and faith of successive generations of Madison Presbyterians born or converted to, baptized and married in, and buried from the Madison church long ago legitimated the 1861 commitment of the congregation and its property to the doctrine and authority of PCUS. [Pet. App. C-22]

This is the very issue upon which the majority of the District Court of Appeal became embroiled and which was ultimately put to rest by the Supreme Court of Florida, when it observed:

> . . . The fact that PCUS was formed by the succession of Presbyterian churches in the confederacy, a generation after organization of the Madison church, affects not at all the commitment of the Madison Presbyterian Church to PCUS in 1861 and continuously for generations thereafter. [Pet. App. B-13.]

III

Florida courts have consistently applied the rationale expressed by this Court in *Watson*, supra, 80 U.S. at 727, that:

> The rule of action which should govern the civil courts . . . is, that, whenever the questions of discipline, or of faith, or ecclesiastical rule, custom, or law have been decided by the highest of these church judicatories to which the matter has been carried, the legal tribunals must accept such decision as final, and as binding on them. . . .

It may be well to reflect upon the basis for this Court's holding in *Watson*, for the principle enunciated there is well reasoned. The form of government in a hierarchical ecclesiastical denomination may be easily ascertained and particularly so in the Presbyterian form of church government. This graduated system of church courts with original and exclusive jurisdiction subject to review and control by the higher church courts is the genius of the Presbyterian form of church government, and it is this connectionalism which underlies the principles enunciated in *Watson*. That decisions of each church court are subject to review and reversal by the courts above it is attended by such provisions in the Book of Church Order as Section 4-1, 14-5, 16-7, 18-6(12), 19-3, and 114-1 through 114-4.

Property disputes between factions of a congregation affiliated with a hierarchical ecclesiastical denomination seldom involve a question of title, but rather a determina-

tion of those persons comprising the local congregation. It will almost always be a matter of identity, and the deference to ecclesiastical decisions on that question must of necessity be preserved for adjudication by church tribunals.

Florida courts, except for the holding by the District Court of Appeal whose decision was quashed by the Supreme Court of Florida, have uniformly held that, as a matter of state law, when the church is representative, republican or episcopal in government, the church property may not be diverted from the parent church by those who withdraw from it.[2]

St. John's Presbytery v. *Central Presbyterian Church of St. Petersburg*, 102 So.2d 714 (Fla. 1958), decided by the Supreme Court of Florida is widely regarded as the landmark decision in Florida on matters regarding disputes over church property. It follows explicitly the holding of this Court in *Watson*, and was subsequently cited by this Court in *Presbyterian Church in the United States* v. *Mary Elizabeth Blue Hull Memorial Presbyterian Church*, 393 U.S. 440, 446 (1969). Moreover, one may search in vain for language in the decision and opinion of the Supreme Court of Florida in this case which is inconsistent with the pronouncement of this Court in *Watson, Serbian, Hull*, in *Kedroff* v. *Saint Nicholas Cathedral*, 344 U.S. 94 (1952), or even in the concurring opinion for three members of the Court in *Maryland & Virginia Eldership* v. *Church of God*, 396 U.S. 367 (1970), or in *Jones* v. *Wolf*, supra. Even if

[2] See, e.g., *Rev. Ferguson, et al.* v. *Rev. Poitier, et al.*, 306 So.2d 212 (Fla. App. 1975); *First Continuing Presbyterian Church of Wauchula* v. *Westminister Presbytery*, 316 So.2d 663 (Fla. App. 1975); *Froelich* v. *Rowley*, 102 So.2d 720 (Fla. 1958); *Nealey* v. *Butler*, 187 So.2d 658 (Fla. App. 1966); *Presbytery of the Everglades* v. *Morgan*, 125 So.2d 762 (Fla. App. 1961).

the implied trust issue could be deemed a constitutional one, and the Supreme Court of Florida be deemed in error in imposing such a trust, the question would still remain as to who represents the local church. That dilemma was squarely faced by the Supreme Court of Florida in *St. John's Presbytery*, supra:

> If it could be held that no implied trust existed in favor of the Presbyterian Church in the United States the ecclesiastical question would then arise as to which faction engaged in the schism was the rightful representative or successor to the Central Church in its attempt to withdraw from affiliation with St. John's Presbytery and the Presbyterian Church but that question is not in the picture.
>
> If the question were here, its solution would involve the doctrine, discipline, ecclesiastical law, rule and custom of the Presbyterian Church. Such questions the courts will not attempt to resolve, even though property rights are involved, but will rely on the decision of them by the highest ecclesiastical court of the church.

102 So.2d at 719.

Thus, without application of the implied trust doctrine in Florida, the result would have been the same because the minority members of the Madison congregation were formally recognized by the Presbytery to constitute the Madison Church.

This Court acknowledged in *Jones* the problems associated with identifying which of two factions represents the "true congregation" in a hierarchical church organization. In suggesting that such a determination by a civil court might require consideration of church religious doctrine, this Court held that:

> Such a determination, however, would appear to require a civil court to pass on questions of religious

> doctrine, and to usurp the function of the commission appointed by the Presbytery, which already has determined that petitioners represent the "true congregation" of the Vineville church. Therefore, if Georgia law provides that the identity of the Vineville church is to be determined according to the "laws and regulations" of the PCUS, then the First Amendment requires that the Georgia courts give deference to the presbyterial commission's determination of that church's identity.

99 S.Ct. at 3028.

The question of whether a state *must* defer to the resolution of an authoritative tribunal of a hierarchical church in the resolution of a church property dispute has been decided by this Court in *Jones* in the negative. However, one will search in vain for any expression in the opinion of the Court or in the dissenting opinion for any expression which would disallow a state from following such a rule if it chose to do so. Indeed, the opinion of the Court in *Jones* explicitly reaffirms the Court's prior holdings that:

> ". . . a State may adopt any one of various approaches for settling church property disputes so long as it involves no consideration of doctrinal matters, whether the ritual and liturgy of worship or the tenets of faith."

99 S.Ct. at 3025

IV

Petitioners' continued assault upon *Watson* as requiring an impermissible consideration of ecclesiastical doctrine is misguided. Careful examination of the opinion of the Supreme Court of Florida will reflect the care with which that Court was mindful of the admonition in *Maryland & Virginia Eldership* v. *Church of God*, supra, that:

> . . . the use of the *Watson* approach is consonant with the prohibitions of the First Amendment only if the appropriate church governing body can be determined without the resolution of doctrinal questions and without extensive inquiry into religious polity.

396 U.S. 370.

PCUS has its own Constitution, which consists, among other things, of the Book of Church Order. (Plaintiffs' Exhibit 1.) This Book of Church Order comprises the form of government and discipline used throughout the denomination. It provides for the creation, composition, power and duties of each level of church court or judicatory. There is no uncertainty, no confusion and no dispute with respect to the form of Presbyterian government; nor is there any need for a civil court to engage in an "extensive" inquiry into religious law and polity to determine where church governing power resides within the hierarchical structure of the denomination.

Section 16-7 of the Book of Church Order (Plaintiffs' Exhibit 1 at 45) provides that:

> The Presbytery has power:
>
> * * * *
>
> (7) to organize new churches
>
> (8) to receive and dismiss churches
>
> (9) to dissolve churches
>
> * * * *

It was unnecessary for the trial court to inquire further as to the church court having jurisdiction over the request of Petitioners to be dismissed from Presbytery with their property, and it was not necessary to go beyond or outside the Book of Church Order to determine the hierarchical structure of PCUS.

Petitioners state on page 13 of their Petition that the Book of Church Order fails to contain any provision which proscribes the action taken in this controversy by

the Petitioners. They go further to assert that the Book of Church Order "says nothing about the inability of the local congregation to control its own property." (Pet. at 13) If Petitioners mean that the Book of Church Order does not specifically state precisely who is to prevail as between two factions in the event a controversy arises, they are, of course, correct. But the Book of Church Order does deal with the possibility of schisms, and provides a procedure for their resolution. Section 16-7 states that the Presbytery has the power to decide complaints, to redress anything done contrary to order, and to visit churches and redress evils. Section 19-3 provides that a Commission can visit a church affected by disorder and settle its difficulties. Section 18-6(12) gives the General Assembly final authority to suppress schismatical contentions and disputations. And, of course, the entire system of review by ascending judicatories, as set forth in Sections 114-1 through 114-4, is intended to provide an internal mechanism for settlement of just such schisms as the one which arose here.

In other words, rather than attempting to deal with the merits of each dispute, the Book of Church Order instead sets up a systematic method by which these schisms shall be decided, including the appointment of a Commission to determine any point in issue, such as who constitutes the true congregation of a local church. This method of dealing with disputes derives from a central tenet of Presbyterianism—that the church should be governed by representative assemblies.

Any notion that civil courts cannot and should not defer to decisions and determinations by hierarchical church courts in the resolution of disputes concerning the identity of those members of a local congregation entitled to the use and control of church property must be considered in light of the proposition announced in *Watson* that:

> . . . The law knows no heresy, and is committed to the support of no dogma, the establishment of no sect. The right to organize voluntary religious associations to assist in the expression and dissemination of any religious doctrine, and to create tribunals for the decision of controverted questions of faith within the association, and for the ecclesiastical government of all the individual members, congregations, and officers within the general association, is unquestioned.

80 U.S. at 728-29.

V

Petitioners argue that the Supreme Court of Florida's deference to the decisions of hierarchical church courts "totally subverts the principle of majority rule on which all other action of the church hierarchy is based." (Pet. at 13.) Such a position has a certain facial appeal, but it simply fails to provide an acceptable method of resolving the basic question of who represents the local congregation. Moreover, it wholly disregards the governmental structure of PCUS.

Chapter 30 of the Book of Church Order (Plaintiffs' Exhibit 1) does provide for the amendment of its provisions in the following manner:

1. The approval of the proposed amendment by the General Assembly and its recommendation to the Presbyteries.
2. The advice and consent of a majority of the Presbyteries.
3. The approval and enactment by a subsequent meeting of the General Assembly.

Thus, it may be seen that the jurisdiction of the respective church courts as provided for in the Book of Church Order may be amended by vote of the constituent members of the denomination serving through their

church courts. If the hierarchical structure of PCUS wishes to modify the manner in which the identity of local congregations is determined, it may properly do so by amendment to its Constitution. That is wholly different, however, from the ability of a local congregation to unilaterally make this determination.

Moreover, Petitioners' assertion that a majority of the local congregation should be able to decide upon "who the local congregation is" effectively cuts through the very heart of Presbyterianism. If, as *Watson* teaches, Presbyterians are free to organize religious denominations and to create tribunals for the governance of its members, under what constitutional theory must it relinquish power to each congregation to identify those members constituting the local church?

Among the vows to which all communing members of the Presbyterian Church in the United States must affirmatively answer is the following:

> Do you submit yourselves to the government and discipline of the church, and promise to further its purity and peace? [3]

Such a solemn vow goes to the very core of Presbyterianism, and while the right of an individual to disassociate himself from membership in or allegiance to the denomination is not at issue here, the right of such persons to collectively withdraw *with the church property* by "majority vote" clashes head-on with the Book of Church Order.

To require, under constitutional grounds, every hierarchical denomination to yield to the wishes of a majority of each local congregation would completely subvert its structure and render its hierarchical structure sterile.

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[3] See also the vows in Sections 4-1(2), 24-5, 27-6(4), 29-3, 29-3(4), 210-5(c)(5), 210-5(c)(4), 219-1 and 224-7.

Nowhere in the Book of Church Order may the alleged right of a local congregation to withdraw with its property be found. That power simply does not exist within the government and discipline of PCUS, and the highest church court in the denomination has explicitly declared that the Book of Church Order makes no provision for unilateral withdrawal of a church to autonomy or independency. (Pet. App. D-7.)

Moreover, it is plain that no principle of "majority rule" exists under the Book of Church Order on which "all other action of the church hierarchy is based." (Pet. at 13.) For example, the advice and consent of three-fourths of the Presbyteries is required for approval of amendments to the Confession of Faith and Catechisms of the Church (§ 30-2(2)), and approval of three-fourths of the members of a particular Presbytery is required to waive certain requirements for ordination of ministers (§ 27-5). A two-thirds vote of the members present at a congregational meeting is required to implement a union with churches of certain other Presbyterian denominations subject to approval of Presbytery (§ 31-2), and by two-thirds vote of those members present at a meeting of the Presbytery, Presbyteries may unite with Presbyteries of certain other Presbyterian denominations subject to approval of the Synod (§ 32-2).

Neither the First Amendment nor *Watson* compels the establishment of hierarchical churches as suggested by Petitioners in the "Question Presented" on page 2 of their Petition. Hierarchical churches are established by people in the exercise of their First Amendment rights, and have continued to flourish and exist because their members want it so. There is more than an *implied* consent by members of PCUS to consent and submit it its government and discipline. There is an explicit vow by which each member of the denomination expresses a willingness to be governed by the denomination which is

wholly inconsistent with the notion that a majority of a local congregation may unilaterally divert the church property from those who remain faithful to their vows. (See n. 1, 3, *supra.*)

VI

After again arguing that the determination of whether a religious denomination is hierarchical or congregational is itself an ecclesiastical question (Pet. at 9), Petitioners then assert that the trial court erred in failing to hold that PCUS was "congregational with regard to its treatment and consideration of property ownership" (Pet. at 9). Precisely the same argument was rejected following a review of the Book of Church Order by the Supreme Court of South Carolina in *Adickes* v. *Adkins*, 215 S.E.2d at 444 (1975).

The structure and government of PCUS has already been considered and decided by this Court[4] and the Supreme Court of Florida[5] to be hierarchical on previous decisions. Having themselves acknowledged the jurisdiction of the Presbytery by petitioning for dismissal with their property (Plaintiffs' Ex. 16), Petitioners' argument here cannot be substantial.

But assuming, arguendo, that Petitioners had prevailed in their notion that PCUS was congregational "as to property," such a holding would only serve to highlight the basic question as to "who is the local congregation," and that question would have to be answered by deferring to the decision of the Presbytery of Florida which would lead to precisely the same decision reached by the Supreme Court of Florida.

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[4] *Hull, supra,* 393 U.S. at 441-442; *Jones, supra* 99 S.Ct. at 3022, 3023.

[5] *St. John's Presbytery, supra,* 102 So.2d at 716.

VII

Petitioners' whole case is well summarized on page 18 of their Petition wherein they argue that "the primary difficulty with the 'deference' rule is that it is results oriented." They go on to argue that "it is impossible to conceive of a hierarchical tribunal determining that those who disagree with the hierarchy are right!" Yet in espousing the proposition that the "neutral principles approach" is the *only* method of resolving church property disputes consistent with the First Amendment, (a position clearly rejected by this Court in *Jones*), Petitioners forget or ignore the right of a hierarchical denomination under the "neutral principles method" under *Jones* to create or preserve identical property rights in favor of the denomination:

> At any time before the dispute erupts, the parties can ensure, if they so desire, that the faction loyal to the hierarchical church will retain the church property.

99 S.Ct. at 3027.

Removed of all its trappings, Petitioners' argument is simply that, if under the law of Florida they cannot prevail, there must be something unconstitutional! No statement can better describe Petitioners' plight than the characterization by Justice Glenn Terrell of the Supreme Court of Florida:

> All of which leads one to the ineluctable conclusion that these dissident lambs at one time happy and contented in the Central Church voluntarily bounded the theological fold in search of what they thought were greener ecclesiastical pastures but missed the boat and are now like the children of Israel grazing in the wilderness of dispair absent a church home

which no human agency except perhaps intercession can restore.[6]

CONCLUSION

For the foregoing reasons, Respondents respectfully suggest that the Supreme Court of Florida did not err in reaching its decision, and there is no conflict with applicable decisions of this Court. The decision below may rest entirely on state law grounds. Even if it does not, the decision comports with the decisions of this Court and the overwhelming majority of other state court decisions on the subject. Accordingly, it would be in order for the Petition for Writ of Certiorari to be denied forthwith.

Respectfully submitted,

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[6] *St. John's Presbytery, supra* 102 So.2d at 711.